

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

ADAM RAWLINS ,) No.
Plaintiff,)
v.) COMPLAINT
JERRY MUNSON, JAMES POPE,) (42 USC §1983; 14th Amendment
And the CITY OF PORTLAND,) Substantive Due Process Violation of
Defendants.) Liberty Interests; Battery; Wrongful
Prayer Amount : \$250,000.00
ORS 21.160(1)(b)

For his Complaint, Plaintiff alleges:

FIRST CLAIM FOR RELIEF
(Deprivation of Liberty - 42 USC Section 1983)
(Against the City of Portland)

1

Plaintiff was hired into Defendant Maintenance Division of the Portland Bureau of Transportation as a Utility Worker 2 on or about August 3, 2016.

2

The Portland Bureau of Transportation (hereafter referred to as “PBOT”) is one of the bureaus of Defendant City of Portland. At all times relevant, PBOT had a pattern and, or practice which promoted, and, or tolerated the extreme hazing and, or harassment of its newly hired probationary employees while said employees were acting in the course and scope of their employment. At all times mentioned Defendant City was Plaintiff’s employer and Defendant’s employees acted out willfully and unprovoked, while working and while on City business. At all relevant times, management was aware of the harassing conduct, turned a blind eye towards it and for all intents and purposes, endorsed and ratified it.

3.

Defendant City of Portland is a municipal corporation authorized under the laws of the State of Oregon. The City is a person for purposes of 42 USC § 1983. At all relevant times, Plaintiff's coworkers were acting pursuant to the authority, customs and policies of the City of Portland.

4.

From September, 2016 through the end of December, 2016, while working, Plaintiff was subject to the following hazing and, or severe harassment by co-workers of the PBOT Maintenance Division:

Maintenance Division:

a. Daily, he would be repeatedly referred to as "fuc ing retarded", stupid, incapable, weak, a pussy, a bitch ;

b. On a frequent basis he would have to pull his shirt off "so he could feel it"; while co-workers shot metal screws, wooden strips, popcorn kernels, and hard candy such as *Good n Plenty* and *Hot Tamales* from a metal tube that was attached to an air compressor; causing bruises, contusions blood blisters and welts.

c. Coworkers required him to once even shoot himself with the air gun mentioned in (b), above:

d. He was required to sit in the back of a City Truck while a co-worker punched and contorted the nipples on his chest, causing bruises and contusions.

1 e. He was thrown and locked in the back of a City Car trailer while the vehicle was in
2 transit;

3 f. He was held against his will, locked in a cage contained within a dark City shed left
4 alone while his legs were tied together with zip ties and duct tape and his torso and arms
5 wrapped with duct tape with no indication when he would be released;

6 g. He was repeatedly physically pushed, body slammed and his safety vest would be
7 ripped off his body.

8 5.

9 At all relevant times, Defendant Lead worker, Jerry Munson Defendant coworker, James
10 Pope and several other co-workers, either engaged in the conduct alleged in paragraph 3, above
11 or oversaw it, and his supervisor Scott Weaver knew the conduct was ongoing and failed to take
12 any form of immediate appropriate and corrective action to stop it.

13 6.

14 As a result of said conduct, Plaintiff was deprived of his liberty and suffered bruises,
15 contusions and welts and severe emotional distress which included but was not limited to
16 depression, humiliation, embarrassment, lost self esteem, lost appetite, fear, apprehension, worry,
17 anxiety, trepidation and sleeplessness; all to his general damage of no less than \$250,000, to be
18 amended before trial.

19 7.

20 As a further result of said conduct, Plaintiff is entitled to recovery of his general
21 damages as alleged, and pursuant to 42 USC Section 1988, costs, disbursements, expert witness
22 fees, prejudgment interest, and reasonable attorneys fees.

23 8.

24 The City was timely served with a Notice of Tort Claim pursuant to ORS 30.275.

25 // // //

26 // // //

SECOND CLAIM FOR RELIEF
(14th Amendment - Loss of liberty Interests)
(Against Defendants Munson and Pope)

9.

Plaintiff realleges paragraphs 1 through 6, and 8, above.

10.

Plaintiff has the protected right to life and liberty against unconstitutional interference or intrusion by government action pursuant to the 14th Amendment to the United States Constitution.

11.

The rights protected under the 14th Amendment due process clause bar certain government actions regardless of the fairness of the procedures used to implement them. In this situation the 14th Amendment is intended to prevent government officials from acting in ways that employ their powers as an instrument of oppression or menace or which shocks the conscience, and which are deliberately indifferent to the safety, security and liberty of citizens.

12.

The substantive due process rights of the 14th Amendment substantive due process clause protect citizens against the arbitrary governmental actions which shock the conscience and which actions are deliberately indifferent to the rights held by citizens to be free from unconstitutional infringement on life, liberty and, or property. The right to be free from unconstitutional infringement of liberty includes the right to not be held captive against one's will and, or the right to control one's bodily integrity. When governmental employees act in a way which is deliberately indifferent to the rights held by citizens they are interfering in fundamental rights implicit in the Constitution. As alleged, in paragraph 4 (d through (f), above, Plaintiff was held against his will while at work and as alleged in paragraph 4(b) through (d) and (g), battered.

13.

Defendants Munson and Pope, operating under color of law, while working for the

1 Defendant City, subject to the laws of the State of Oregon and the United States Constitution,
2 pursuant to his training from the City, and in furtherance of the City's official policies and
3 practices was acting in an outrageous and deliberately indifferent manner when engaging in the
4 conduct alleged in paragraph 4 above.

5 14.

6 The deliberately indifferent conduct of Defendants Munson and Pope as alleged, caused
7 Plaintiff to suffer injuries and damages as alleged in paragraph 6, above.

8 **THIRD CLAIM FOR RELIEF**
9 (Battery)
9 (Against all Defendants)

10 15.

11 Plaintiff realleges paragraphs 1, 2, 4(b), (d), and (g), 5, 6 and 8, above.

12 16.

13 At all relevant times, Plaintiff's coworkers engaging in the conduct alleged in paragraph
14 4(b), (d) and (g), acted wilfully and unprovoked with the intention to cause Plaintiff harmful,
15 and, or offensive contact.

16 **FOURTH CLAIM FOR RELIEF**
17 (False Imprisonment)
17 (Against all Defendants)

18 17.

19 Plaintiff realleges paragraphs 1, 2, 3, 4(d), (e), and (f), 5, 6 and 8, above.

20 18.

21 Plaintiff's detention as alleged, was unlawful and, or without justification or consent.

22 19.

23 At all relevant times, Plaintiff's co-workers acted with the intent to restrain Plaintiff.

24 **FIFTH CLAIM FOR RELIEF**
25 (Intentional Infliction of Emotional Distress)
25 (Against all Defendants)

26 20.

Plaintiff realleges paragraphs 1, 2, 4 through 6 and 8, above.

1 21.

2 Defendants' acts did in fact cause plaintiff to suffer severe mental and emotional distress
3 and defendants either intended that their actions cause plaintiff such mental and emotional
4 distress or they acted with reckless disregard with knowledge as to the effect their conduct
5 would have on plaintiff.

6 22.

7 Defendants' conduct was intentional, wilful and wanton or in reckless indifference to
8 plaintiff's health or welfare. The acts were extraordinary transgressions of the bounds of
9 socially tolerable conduct and exceeded any reasonable limit of social toleration.

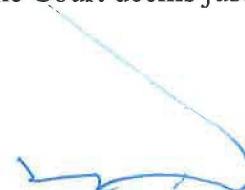
10 .

11 WHEREFORE, Plaintiff Demands a jury trial and prays for the relief requested in each
12 of his claims for relief and for such other relief as the Court deems just and appropriate.

13
14 DATED this 31st day of August, 2018.
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Benjamin Rosenthal, OSB# 83082
Attorney for Plaintiff



IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

Adam Rawlins

Plaintiff(s)

Case No. 18CV38497

v.

Jerry Munson, James Pope, and the City of Portland

AFFIDAVIT OF SERVICE

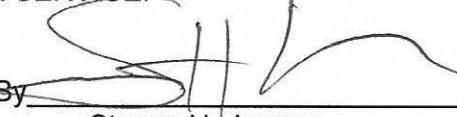
Defendant(s)

State of Oregon)
)
 ss.
County of Multnomah)
)

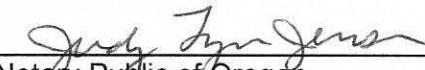
I, Steven H. Jensen, certify that I served a **Summons, Complaint and Plaintiff's First Request for Production of Documents** in this action by delivering or leaving the documents as follows:

Service upon the City of Portland, by leaving documents with Crystine Jividen, who is the Office Receptionist of the Portland City Attorney thereof; at 1221 SW 4th Avenue, Room 430, Portland, OR; on 9/10/2018, at 11:30 AM o'clock.

I FURTHER CERTIFY AND SWEAR THAT I AM A COMPETENT PERSON OVER 18 YEARS OF AGE, A RESIDENT OF THE STATE OF OREGON, AND THAT I AM NOT A PARTY TO NOR AN OFFICER, DIRECTOR OR EMPLOYEE OF, NOR ATTORNEY FOR ANY PARTY, CORPORATE OR OTHERWISE; THAT EACH OF THE ABOVE-NAMED SERVICED BY ME IS/ARE IDENTICAL TO THE INDIVIDUAL(S) DESIGNATED FOR SERVICE.

By 
Steven H. Jensen
10232 SW 59th Place
Portland, OR 97219
(503) 970-8974

Subscribed and sworn to before me this 12 day of Sept, 2018



Notary Public of Oregon



IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

ADAM RAWLINS,

Plaintiff,

v.

JERRY MUNSON, JAMES POPE and the CITY
OF PORTLAND,

Defendants.

CASE NO. 18CV38497

SUMMONS

TO: CITY OF PORTLAND
c/o Portland City Attorney's Office, 1221 SW 4th Ave, Rm 430, Portland, OR 97204

You are hereby required to appear and defend the complaint filed against you in the above-entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

**NOTICE TO THE DEFENDANT:
READ THESE PAPERS CAREFULLY!**

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon the plaintiff.

If you have any questions, you should see an attorney immediately.

If you need help in finding an attorney, you may contact the Oregon State Bar's Lawyer Referral Service at (503) 684-3763, or toll-free in Oregon at (800) 452-7636, or at info@osbar.org.

STATE OF OREGON

)

County of Multnomah

)
ss.

Signature of Attorney Author for Plaintiff

Benjamin Rosenthal

Attorney's / Author's Name (Typed or Printed)

#830828

Bar No. (if any)

1023 SW Yamhill Street, Suite 200

Address

Portland, Oregon 97205

City State Zip

503-226-6409

Phone

503-226-0903

FAX (if any)

ben@benroselaw.com

Attorney's Email Address (if any)

Trial Attorney (if other than above)

Bar No.

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above-entitled action.

Attorney of Record for Plaintiff(s)

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on a separate document which you shall attach hereto.

Attorney of Record for Plaintiff(s)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

ADAM RAWLINS,

Plaintiff,

v.

JERRY MUNSON, JAMES POPE and the CITY
OF PORTLAND,

Defendants.

CASE NO. 18CV38497

SUMMONS

TO: JAMES POPE
2929 N Kerby Ave, Portland, OR 97227

You are hereby required to appear and defend the complaint filed against you in the above-entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

**NOTICE TO THE DEFENDANT:
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If you have any questions, you should see an attorney immediately.

If you need help in finding an attorney, you may contact the Oregon State Bar's Lawyer Referral Service at (503) 684-3763, or toll-free in Oregon at (800) 452-7636, or at lrf@osbar.org.

STATE OF OREGON)
)ss.
County of Multnomah)

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above-entitled action.

Attorney of Record for Plaintiff(s)

Attorney of Record for Plaintiff(s)

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on a separate document which you shall attach hereto.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

ADAM RAWLINS,

Plaintiff,

v.

JERRY MUNSON, JAMES POPE and the CITY
OF PORTLAND,

Defendants.

CASE NO. 18CV38497

SUMMONS

TO: JERRY MUNSON
2929 N Kerby Ave, Portland, OR 97227

You are hereby required to appear and defend the complaint filed against you in the above-entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

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READ THESE PAPERS CAREFULLY!**

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If you have any questions, you should see an attorney immediately.

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STATE OF OREGON)
)
County of Multnomah)

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above-entitled action.

Attorney of Record for Plaintiff(s)

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on a separate document which you shall attach hereto.

Attorney of Record for Plaintiff(s)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

ADAM RAWLINS ,) No. 18CV38497
Plaintiff,) FIRST AMENDED COMPLAINT
v.)
JERRY MUNSON, JAMES POPE,) (42 USC §1983; 14th Amendment
And the CITY OF PORTLAND,) Substantive Due Process Violation of
Defendants.) Liberty Interests; Battery; Wrongful
Prayer Amount : \$660,000.00
ORS 21.160(1)(b)

For his Complaint, Plaintiff alleges:

FIRST CLAIM FOR RELIEF
(Deprivation of Liberty - 42 USC Section 1983)
(Against the City of Portland)

1

Plaintiff was hired into Defendant Maintenance Division of the Portland Bureau of Transportation as a Utility Worker 2 on or about August 3, 2016.

2

The Portland Bureau of Transportation (hereafter referred to as “PBOT”) is one of the bureaus of Defendant City of Portland. At all times relevant, PBOT had a pattern and, or practice which promoted, and, or tolerated the extreme hazing and, or harassment of its newly hired probationary employees while said employees were acting in the course and scope of their employment. At all times mentioned Defendant City was Plaintiff’s employer and Defendant’s employees acted out willfully and unprovoked, while working and while on City business. At all relevant times, management was aware of the harassing conduct, turned a blind eye towards it and for all intents and purposes, endorsed and ratified it.

10 3.

Defendant City of Portland is a municipal corporation authorized under the laws of the State of Oregon. The City is a person for purposes of 42 USC § 1983. At all relevant times, Plaintiff’s coworkers were acting pursuant to the authority, customs and policies of the City of Portland.

15 4.

From September, 2016 through the end of December, 2016, while working, Plaintiff was subject to the following hazing and, or severe harassment by co-workers of the PBOT Maintenance Division:

19 a. Daily, he would be repeatedly referred to as “fuc__ing retarded”, stupid, incapable,
20 weak, a pussy, a bitch ;

21 b. On a frequent basis he would have to pull his shirt off “so he could feel it”; while co-
22 workers shot metal screws, wooden strips, popcorn kernels, and hard candy such as *Good n*
23 *Plenty* and *Hot Tamales* from a metal tube that was attached to an air compressor; causing
24 bruises, contusions blood blisters and welts.

25 c. Coworkers required him to once even shoot himself with the air gun mentioned in (b),
26 above;

 d. He was required to sit in the back of a City Truck while a co-worker punched and

1 contorted the nipples on his chest, causing bruises and contusions.

2 e. He was thrown and locked in the back of a City Car trailer while the vehicle was in
3 transit;

4 f. He was held against his will, locked in a cage contained within a dark City shed left
5 alone while his legs were tied together with zip ties and duct tape and his torso and arms
6 wrapped with duct tape with no indication when he would be released;

7 g. He was repeatedly physically pushed, body slammed and his safety vest would be
8 ripped off his body.

9 5.

10 At all relevant times, Defendant Lead worker, Jerry Munson Defendant coworker, James
11 Pope and several other co-workers, either engaged in the conduct alleged in paragraph 3, above
12 or oversaw it, and his supervisor Scott Weaver knew the conduct was ongoing and failed to take
13 any form of immediate appropriate and corrective action to stop it.

14 6.

15 As a result of said conduct, Plaintiff was deprived of his liberty and suffered bruises,
16 contusions and welts and severe emotional distress which included but was not limited to
17 depression, humiliation, embarrassment, lost self esteem, lost appetite, fear, apprehension, worry,
18 anxiety, trepidation and sleeplessness; all to his general damage of no less than \$660,000.00, to
19 be amended before trial.

20 7.

21 As a further result of said conduct, Plaintiff is entitled to recovery of his general
22 damages as alleged, and pursuant to 42 USC Section 1988, costs, disbursements, expert witness
23 fees, prejudgment interest, and reasonable attorneys fees.

24 8.

25 The City was timely served with a Notice of Tort Claim pursuant to ORS 30.275.

26 ////

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SECOND CLAIM FOR RELIEF
(14th Amendment - Loss of liberty Interests)
(Against Defendants Munson and Pope)

9.

Plaintiff realleges paragraphs 1 through 6, and 8, above.

10.

Plaintiff has the protected right to life and liberty against unconstitutional interference or intrusion by government action pursuant to the 14th Amendment to the United States Constitution.

11.

The rights protected under the 14th Amendment due process clause bar certain government actions regardless of the fairness of the procedures used to implement them. In this situation the 14th Amendment is intended to prevent government officials from acting in ways that employ their powers as an instrument of oppression or menace or which shocks the conscience, and which are deliberately indifferent to the safety, security and liberty of citizens.

12.

The substantive due process rights of the 14th Amendment substantive due process clause protect citizens against the arbitrary governmental actions which shock the conscience and which actions are deliberately indifferent to the rights held by citizens to be free from unconstitutional infringement on life, liberty and, or property. The right to be free from unconstitutional infringement of liberty includes the right to not be held captive against one's will and, or the right to control one's bodily integrity. When governmental employees act in a way which is deliberately indifferent to the rights held by citizens they are interfering in fundamental rights implicit in the Constitution. As alleged, in paragraph 4 (d through (f), above, Plaintiff was held against his will while at work and as alleged in paragraph 4(b) through (d) and (g), battered.

13.

Defendants Munson and Pope, operating under color of law, while working for the Defendant City, subject to the laws of the State of Oregon and the United States Constitution, pursuant to his training from the City, and in furtherance of the City's official policies and practices was acting in an outrageous and deliberately indifferent manner when engaging in the conduct alleged in paragraph 4 above.

14.

The deliberately indifferent conduct of Defendants Munson and Pope as alleged, caused Plaintiff to suffer injuries and damages as alleged in paragraph 6, above.

THIRD CLAIM FOR RELIEF
(Battery)
(Against all Defendants)

15.

Plaintiff realleges paragraphs 1, 2, 4(b), (d), and (g), 5, 6 and 8, above.

16.

At all relevant times, Plaintiff's coworkers engaging in the conduct alleged in paragraph 4(b), (d) and (g), acted wilfully and unprovoked with the intention to cause Plaintiff harmful, and, or offensive contact.

FOURTH CLAIM FOR RELIEF
(False Imprisonment)
(Against all Defendants)

17.

Plaintiff realleges paragraphs 1, 2, 3, 4(d), (e), and (f), 5, 6 and 8, above.

18.

Plaintiff's detention as alleged, was unlawful and, or without justification or consent.

19.

At all relevant times, Plaintiff's co-workers acted with the intent to restrain Plaintiff.

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FIFTH CLAIM FOR RELIEF
(Intentional Infliction of Emotional Distress)
(Against all Defendants)

20.

Plaintiff realleges paragraphs 1, 2, 4 through 6 and 8, above.

21.

Defendants' acts did in fact cause plaintiff to suffer severe mental and emotional distress and defendants either intended that their actions cause plaintiff such mental and emotional distress or they acted with reckless disregard with knowledge as to the effect their conduct would have on plaintiff.

22.

Defendants' conduct was intentional, wilful and wanton or in reckless indifference to plaintiff's health or welfare. The acts were extraordinary transgressions of the bounds of socially tolerable conduct and exceeded any reasonable limit of social toleration.

WHEREFORE, Plaintiff Demands a jury trial and prays for the relief requested in each of his claims for relief and for such other relief as the Court deems just and appropriate.

DATED this 17 day of September, 2018.

Benjamin Rosenthal, OSB# 83082
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing FIRST AMENDED COMPLAINT on:

Anne M. Milligan
Deputy City Attorney
Portland City Attorney's Office
1221 SW 4th Ave, Rm 430
Portland, OR 97204
Anne.Milligan@portlandoregon.gov

Attorney for Defendant

- by mailing a full, true, and correct copy thereof in a sealed, first-class postage-prepaid envelope, addressed to the attorney as shown above, the last-known office address of the attorney, and deposited with the United States Postal Service at Portland, Oregon on the date set forth below.
 - by causing a full, true, and correct copy thereof to be hand-delivered to the attorney at the attorney's last-known office addressed listed above on the date set forth above.
 - by faxing a full, true, and correct copy thereof to the attorney at the fax number shown above, which is the last-known fax number for the attorney's office, on the date set forth below.
 - by emailing a full, true, and correct copy thereof to the attorney at the email address shown above, which is the last-known email address for the attorney, on the date set forth below.
 - by the OJD eFiling System on the date set forth below.

DATED this 27th day of September, 2018

Lisa Marie Lansing
Legal Assistant to
Benjamin Rosenthal, OSB No. 830828
Attorney for Plaintiff Adam Rawlins